

REMARKS

Applicant respectfully requests reconsideration of the subject application.

1. 35 U.S.C 103(a) Rejections

Claims 1-4, 17, 22-25 and 41-44 stand rejected as being unpatentable over Campbell (U.S. Patent 6,453,029) in view of Kazmi (U.S. Patent No. 6,044,261). Claims 5-11, 13-16, 19-21, 26-31, 33-36, 38-40, 45-50, 52-55 and 57-59 stand rejected as being unpatentable over Campbell in view of Kazmi, and in further view of Marsh (U.S. Patent No. 6,574,465). Claims 12, 32 and 51 stand rejected as being unpatentable over Campbell in view of Kazmi, and in further view of Chung (U.S. Patent No. 6,532,366). Claims 18, 37 and 56 stand rejected as being unpatentable over Campbell in view of Kazmi, and in further view of Dahm (U.S. Patent No. 6,597,903). Applicant respectfully traverses these rejections for at least the reasons below.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Hence, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure re *Vaeck*, 947 F2d 488, 20 USPQ2d 1438 (Fed. Cir. 1999).

A. *Campbell teaches AWAY from the use of flat rate, pay-in-advance services*

Claims 1, 22 and 41 each recite, in part, "determining a flat rate charge for the services . . . and receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber." Support for this limitation can be found on page 53 of the specification where it recites, by way of non-limiting example only:

The operations of the present invention involve a number of improvements relative to prior known cellular systems. The billing system is modified and improved. The format, customer service screens and interfaces, and return and repair functions are improved. Simplified "one-line billing" is preferred. The billing is based upon a flat rate for cellular service. Preferably, the rate is low enough to attract additional users who are eliminated by traditional metered billing formats based upon minute of use charges. Payment is requested in advance, eliminating or substantially reducing accounts receivable. Service is terminated for non-payment, eliminating or reducing collections operations.

Applicant respectfully submits, in light of the recitation immediately above, that Campbell and Kazmi teach away from the use of flat rate, pay-in-advance wireless communication services. Kazmi merely teaches informing the subscriber of the associated rate changes for a call dependent upon the location of the caller (see Kazmi, col. 6, lines 43 – 54). Kazmi thus assesses a variable rate prior to the occurrence of a call, but does not teach receipt of payment in advance.

It is apparent that Campbell teaches a “rate billing” plan (see Abstract) that charges for calls after the calls or call attempts have occurred, by a variable, flat, or constant rate charge, and that the rate billed by Campbell is assessed after the call duration (see col. 7, lines 28-40). This teaching in Campbell provides for a variation of the rate, based on location or call type, specifically because the charge is not billed until during or after a call duration. As such, Campbell explicitly teaches away from a flat rate charge occurring prior to use of any services. Thus, Campbell allows for rate variance by waiting to assess a rate until a call occurs, and hence Campbell teaches away from the teaching of Kazmi to assess call charges prior to the occurrence of a call. Further, even assuming, arguendo, that Kazmi teaches assessment of a rate in advance, neither Campbell nor Kazmi include any teaching of receiving payment in advance.

A flat rate charge occurring prior to the use of the services by the subscriber, followed by receipt of payment for that charge prior to the use of the services, obviously would not allow for changes in charges or payment in accordance with a call location or call type using the present invention, as all charges and payments in the present invention are made prior to the occurrence of any call. This shortcoming of Campbell is

not addressed by Kazmi, and in fact Campbell teaches away from a combination with Kazmi. Therefore, at least this limitation in independent claims 1, 22, and 41 is not taught by any combination of Campbell and Kazmi. In other words, Applicant submits Campbell and Kazmi, neither individually nor in combination, teach or suggest the use of flat rate and pay-in-advance services for subscribers in wireless communication services.

Wherefore, Applicant submits at least Claims 1, 22 and 41 are patentably distinguishable over the prior art of record. Applicant further submits each of Claims 2-21, 23 - 40 and 42 - 59 is similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from a patentably distinct base Claim 1, 22 or 41.

B. Kazmi teaches AWAY from limiting the use of a wireless device to a particular geographic region

Claims 1, 22, and 41 each recite, in part, that the wireless services of the present invention are provided by the provider only in a limited geographic region. Campbell includes no teaching of limiting wireless services to particular geographic regions.

Kazmi teaches the use of a "home zone" (see col. 6) in which services are provided. However, Kazmi specifically teaches the providing of services by the provider outside of the "home zone". (see col. 6, lines 42-45). As such, Kazmi explicitly teaches away from limiting the wireless services to provision by the provider only in the home

zone, which limiting is performed in the present invention as claimed in claims 1, 22, and 41.

Therefore, at least this limitation in independent claims 1, 22, and 41 is not taught by any combination of Campbell and Kazmi. In other words, Applicant submits Campbell and Kazmi, neither individually nor in combination, teach or suggest the limiting of the provision of wireless services by the provider to only a limited geographic region.

Wherefore, Applicant submits at least Claims 1, 22 and 41 are patently distinguishable over the prior art of record. Applicant further submits each of Claims 2-21, 23 - 40 and 42 - 59 is similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from a patentably distinct base Claim 1, 22 or 41.

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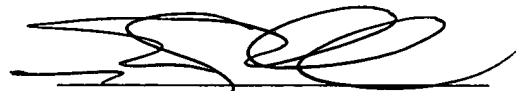
2. Conclusion

Wherefore, Applicant believes all outstanding grounds raised by the Examiner have been addressed, and thus respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Alternatively, should the Examiner persist in any of the foregoing rejections, Applicant respectfully requests the Examiner: specifically identify and point out with particularity those exacting elements taught by the prior art references upon which the Examiner relies for teaching each claimed element of each rejected claim; and, identify those particular portions of the prior art references upon which he relies for support, so Applicant may be afforded an appropriate opportunity to deliberate and respond to any such rejection.

Respectfully Submitted,

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